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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,909	11/24/2004	Christian Cloutier	GOUD:050US	1324

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EXAMINER	
SMITH, FANGEMONIQUE A	

ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/500,909	CLOUTIER, CHRISTIAN	
	Examiner	Art Unit	
	Fangemonique Smith	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-12,14-20 and 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-12,14-20 and 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 July 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is responsive to the Response to Office Action filed on June 30, 2006. The Examiner acknowledges the cancellation of claims 3, 4, 13, 21 and 22; and amendment of claims 1, 2, 5-9, 11, 14-20 and 23. Claims 1, 2, 5-12, 14-21 and 23 are pending. The drawing objection is withdrawn as requested. All claim objections and 112 rejections have been overcome through the amendments submitted in the Response to Office Action filed on June 30, 2006.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, 5-12, 14-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehrman et al. (U.S. Patent Number 6,703,939) in view of Sullivan et al. (U.S. Patent Number 6,984,207).

In regard to claims 1, 2, 5-12, 14-21 and 23, Lehrman et al. disclose a system and method for evaluating movement of a body relative to an environment. The system disclosed by Lehrman et al. monitors the activity and comfort of at least one subject. The device includes at least one

portable data acquisition unit in the form of a sensing system (71) comprising a set of sensors, which are combined according to needs of the at least one subject under monitoring. The Lehrman et al. system also includes a signal processor (47) and a control unit (805), which includes an activity modulator. The control unit (805) is connected to the signal processor (47) through a network connection (810). As the patient is monitored by the sensors of the device maintained in a close relationship to the patient's body, the data collected regarding the informed state of the patient is communicated to the control unit (805) (col. 11, lines 58-67; col. 12, lines 1-50). The control unit (805) also allows the person in charge of monitoring the patient to order a retroaction according to at least a state of the patient. Lehrman et al. suggest while viewing the information provided, the person charged with monitoring the patient could initiate physiological testing, status checks or the like (col. 12, lines 43-50). Lehrman et al. disclose main sensors consisting of movement sensors and complementary sensors consisting of G sensors, temperature and sound. The system disclosed by Lehrman et al. further includes a remote receiver unit which includes a non-volatile memory (121) for storing patient information as well as a communication network connection (810) for gaining remote access to the information gathered by the system (col. 11; col. 12, lines 1-50). The communication network allows for adjusting a transmission power between the data acquisition unit (71) and the control unit (805). Lehrman et al. disclose using the data acquisition unit (71) to detect activity of the subject while coordinate data and prerecorded sets of movement activity assist with establishing environmental parameters to determine when an abnormal motion occurs defined by a tolerance level predetermined for the subject. The system incorporates a remote monitoring mechanism wherein a non-response situation triggers an alarm and the person charged with monitoring the patient is able to order a

retroaction according to the state of the patient (col. 10, lines 54-61). Lehrman et al. disclose the features of the Applicant's invention as described above including a system for monitoring activity and comfort of at least one subject comprising at least one data acquisition unit having a set of sensors. There is a control unit connected the at least one data acquisition unit of the Lehrman et al. device wherein the sensors are able to detect G forces, temperature and sound. The Lehrman et al. system further monitors movement of the subject in accordance with the respiration pattern of the subject including heart rate (col. 10, lines 1-22). Additionally, the user interface of the system allows a person to be informed of a state of the subject, to order a retroaction according to the state of the at least one subject (col. 9, lines 40-67; col. 10, lines 1-67). The sensor of the Lehrman et al. device is calibrated according to predetermined motion data of the subject to determine a "tolerance" level for the subject. Although Lehrman et al. disclose the use of sensors; the reference is silent to what types of sensors are used. Lehrman et al. do not disclose a wing-shaped piezoelectric sensor comprising at least one piezo film coated with a flexible, non-allergenic and isolating material used with the system. Sullivan et al. disclose a physiological monitoring apparatus and method having a piezoelectric film sensor for sensing physiological phenomenon. The sensor is made of a non-allergenic and isolating material, polyvinylidene fluoride. The sensor is connected to a microcomputer to record analyze and display data for on-line assessment and to provide a quick response. It would have been obvious to one having ordinary skill in the art at the time the Applicants' invention was made to modify a system for detecting an acceleration of a body and evaluating movement of a body relative to an environment to detect irregular motions of the body, similar to that disclosed by Lehrman et al., to include piezo-electric sensors, similar to that disclosed by Sullivan et al., to

implement a commonly used type of sensor which allows a real-time interactive display, while maintaining the functionality of the device. It also would have been obvious to one having ordinary skill in the art at the time the Applicants' invention was made to shape the sensor in the form of a wing as mere design choice while maintaining the accuracy and utility of the device.

Response to Arguments

4. Applicant's arguments filed June 30, 2006 have been fully considered but moot in view of the new ground(s) of rejection. Applicant argues the Lerhman et al. reference does not allow at least one person in charge of the at least one subject to be informed of a state thereof. Examiner respectfully disagrees. As described in col. 11 and 12 of the Lehrman et al. reference, the reference describes the device in communication with a network, which sends information to a remote location for notification of a state of the user. Additionally, Examiner submits the combined references of Lehrman et al. and Sullivan et al. meet the limitations of the claims as described above.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fangemonique Smith whose telephone number is 571-272-8160. The examiner can normally be reached on Mon - Fri 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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